

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Timothy McGuire and James Lee
Joseph Ryan,

Plaintiffs,

v.

Case No. 05-40185

Royal Oak Police Sgt. Douglas Warner,
et al.,

Honorable Sean F. Cox

Defendants.

ORDER
DENYING MOTION FOR RECONSIDERATION AND TO VACATE
ORDER TO APPEAR FOR STATUS CONFERENCE AND
GRANTING MOTION TO SUBSTITUTE

In an Order dated January 13, 2010, this Court noted that several motions were pending before the Court, set a **Status Conference for January 22, 2010** to discuss these motions, and ordered various individuals to personally appear. Following that Order, two motions pertaining to the Status Conference have been filed.

First, the City of Royal Oak filed a Motion “For Reconsideration and to Vacate Order to Appear for Status Conference” (Docket Entry No. 276), wherein it asserts that this Court no longer has jurisdiction over this matter because a notice of appeal has been filed. The Court shall **DENY** this motion because the Court believes that it has jurisdiction to address motions that are currently pending in this action. As the City’s own motion acknowledges, this Court is *not* divested of jurisdiction over matters in aid of appeal. *Inland Bulk Transfer Co. v. Cummins Engine Co.*, 332 F.3d 1007, 1013 (6th Cir. 2003). Here, the City of Royal Oak has a motion

pending before this Court wherein it asks this Court to grant a discretionary stay in this action pending appeal *without bond*. (See Docket Entry No. 258 at 1) (“Defendants-Appellants, DOUGLAS WARNER and BARRY GALE, and CITY OF ROYAL OAK . . . move this Court for a stay of the Consent Judgments pending appeal without bond pursuant to FED.R.CIV.P. 62.”). In that motion, the City asks this Court to depart from the usual requirement of a full security supersedeas bond. In order to assess the City’s request, the Court deems it necessary for the Mayor of the City of Royal Oak and the City Attorney for Royal Oak to appear at the Status Conference.

Second, the MMRMA has filed a motion seeking to substitute its representative at the Status Conference. The MMRMA requests that the following two individuals be permitted to appear on behalf of the MMRMA at the Status Conference: 1) Timothy Belanger, Senior Claims Counsel; and 2) Michael M. Ellis, Director of Claims. The Court shall **GRANT** this unopposed request.

Accordingly, **IT IS ORDERED** that the City of Royal Oak’s Motion for Reconsideration and to Vacate Order to Appear for Status Conference is **DENIED**. **IT IS FURTHER ORDERED** that the MMRMA’s Motion to Substitute is **GRANTED**.

IT IS FURTHER ORDERED that the following individuals are to appear in person for the **January 22, 2010 Status Conference**: 1) **James Ryan**; 2) **Timothy Belanger, Senior Claims Counsel for the MMRMA**; 3) **Michael M. Ellis, Director of Claims for the MMRMA**; 4) **the Mayor of the City of Royal Oak**; and 5) **the City Attorney for Royal Oak**. **Timothy McGuire must be available by telephone during the conference.**

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: January 19, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 19, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager